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Congress of the United States

House of Representatives

Washington, D.C. 20515

November 7, 1983

Dear Colleague:

"The polygraph itself cannot detect deception"

This is an important conclusion drawn by the Office of Technology Assessment (OTA) after conducting a six-month review of polygraph validity and reliability. The OTA, which was requested to undertake the review by the House Committee on Government Operations, also concluded that "the further one gets away from the conditions of a criminal investigation the weaker the scientific evidence for polygraph validity." Validity is defined by the OTA as the extent to which polygraph testing can accurately detect truthfulness and deception.

Moreover, OTA officials concluded that "the available research evidence is inadequate to establish polygraph validity when used in personnel security screening -- whether that be pre-employment, pre-clearance, or aperiodic." Although the National Security Agency, the Central Intelligence Agency, and many other federal and private organizations, maintain that the polygraph is a useful screening instrument, the OTA emphasized in testimony given before the House Committee on Government Operations, that available research evidence does not establish polygraph validity for this purpose. In fact, even in the polygraph's most useful application -- specific-issue criminal investigations - correct guilty detections only ranged from 17 to 100 percent. A specific-issue criminal investigation is characterized by a prior investigation that narrows the suspect list, and develops significant information about the crime.

Given the uncertainties surrounding the polygraph, I believe it is unconscionable to subject employees or applicants for employment to a test which is of questionable validity. I believe that a federal law should be enacted which would establish a uniform code of polygraph use. Currently, nineteen states and the District of Columbia prohibit the use of the polygraph as a condition of private sector employment, while five other states have partial restrictions on polygraph use. Furthermore, the Justice Department demonstrated its lack of faith in the polygraph in the early 1970's by recommending against the admissibility of polygraph evidence in court.

H.R. 2403 -- the Polygraph Control and Privacy Protection Act -- would eliminate the conflicting state laws by prescribing fines and imprisonment for employers who request or require that their employees or applicants for employment take a polygraph test. It is important to note that the present trend is toward stronger individual privacy protection: four of the nineteen state laws prohibiting [illegible] as a condition of private sector employment have been [illegible]

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The Polygraph Control and Privacy Protection Act would not eliminate polygraph testing in connection with a specific crime committed at the workplace. But it would prohibit the use of the polygraph in its most controversial application -- pre-employment screening in the private sector. If you agree that polygraph testing as a condition of private sector employment should be prohibited, please contact Tony Roda at X55542 to cosponsor. In addition, if you would like to obtain further information concerning the recently-completed polygraph review, please contact Fred Wood at the Office of Technology Assessment, X62240.

Sincerely,

Stewart B. McKinney, M.C.

Bruce A. Morrison, M.C.

Louis Stokes, M.C.

Edolphus Towns, M.C.

Howard L. Berman, M.C.

Mickey Leland, M.C.

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